

REMARKS

Favorable reconsideration of this application is respectfully requested in view of the following remarks.

Claims 1-30 remain pending under consideration in the present application, of which claims 1, 21 and 22 are independent.

With appreciation, it is noted that the Office Action indicates (see present Office Action, page 7, item 4) claims 8-9, 11-12, 24, 26, 28 and 30 as containing allowable subject matter.

Noted - IDS Considered

The indication (see attachment to the Office Action mailed April 25, 2008) that the Information Disclosure Statements as filed on December 20, 2005, October 4, 2006 and March 1, 2007 and references listed therein have been considered is noted with appreciation.

Noted - Drawings Approved

The indication (see Office Action Summary of the Office Action mailed April 25, 2008, boxes 10(a) as checked) that the Drawings (submitted on December 20, 2005) have been approved is noted with appreciation.

Claim Rejection Under 35 U.S.C. §103

Claims 1-7, 10 and 13-22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kajiya et al. (U.S. Patent Application Publication No. 2003/0137721, Kajiya hereinafter) in view of Tsuda et al. (U.S. Patent No. 6,038,063, Tsuda hereinafter).

It is respectfully submitted that the present application is filed as a U.S. national-stage application under 35 U.S.C. § 371, claiming priority to an earlier filed International PCT Application No. PCT/JP2003/008316, which was filed on June 30, 2003 (see Transmittal Letter To The United States Designated/Elected Office

Concerning A Filing Under 35 U.S.C. 371). Therefore, the present application shall be entitled to the benefit of the earlier-filed PCT application and associated filing date of June 30, 2003.

Because the priority date of present application is the filing date of June 30, 2003 of the PCT Application, such a priority date is clearly earlier than the publication date of July 24, 2003 of Kajiya.

Kajiya is an International PCT Application that designated the United States and was published under Article 21(2) of the Patent Cooperation Treaty in the Japanese language, and so does not have the effects for the purposes of 35 U.S.C. § 102(e). See MPEP 706(f)(1), time chart in Example 5, which indicates that there is no 102(e) prior art date, as "no benefit of the international filing date... is given for 35 U.S.C. 102(e) prior art purposes if the IA [international application] was published under PCT Article 21(2) in a language other than English, regardless of whether the international application entered the national stage" (underlined emphasis added). Thus, it is respectfully submitted that Kajiya is not qualified as prior art against the claimed invention.

Based on the citation of Kajiya in the Office Action, it is noted that there is a PCT publication, WO 02/01684, corresponding to Kajiya. Hence, it is respectfully requested that the Examiner reviews the claimed invention in view of this PCT publication and in light of the citation of Kajiya in the Office Action. Should the Examiner believe that a prior art rejection is warranted based on the PCT publication, it is respectfully requested that the Examiner issues another non-final Office Action, as such a new ground of rejection would not have been necessitated by amendments.

In view of the foregoing discussion, the rejection of claims 1-7, 10 and 13-22 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 23, 25, 27 and 29 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Kajiya in view of Pirio et al. (U.S. Patent No. 5,532,861, Pirio

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hereinafter), Tsuda and Bonthron et al. (U.S. Patent No. 6,738,173, Bonthron hereinafter).

It is respectfully submitted that Kajiya is not qualified as prior art against the claimed invention. Thus, the rejection of claims 23, 25, 27 and 29 is improper. Accordingly, withdrawal of the rejection is respectfully requested.

Conclusion

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 50-4610.

Respectfully submitted,

Dated: November 18, 2009

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